

JUN 20 2006

**IN THE UNITED STATES PATENT AND TRADE MARKS OFFICE
RESPONSE**

Date: 20 June 2006

File No.: 1120W104

In Re Patent Application

Serial No.: Cl.P. 10/765,864

Filing Date: January 29, 2004

Title: SHEET METAL STUD and COMPOSITE CONSTRUCTION PANEL
and Method

Inventor: BODNAR ERNEST R.

Art unit; 3635

Examiner; Jeanette E Chapman. Ph 1 571 272 6841 Fx 1 571 273 8300

Office Action; June 8 2006 (election)

The Assistant Commissioner
of Patents and Trade Marks.
Washington, D.C. 20231
U.S.A.

Dear Sirs/Ms:

In response to the above noted Office Action ,
the requirement for restriction is respectfully traversed.
Examiner's reasoning as to the distinction between groups 1 and 2 is believed to
warrant reconsideration.

The Examiner states that the test for distinction is whether the
"The method can be practised with a steel stud having **additional** limitations over
those recited in Claims of group 1."

It is respectfully submitted that this test is not correct.

If this test proposed by the Examiner were a valid reason for holding that two
products are different, then an infringer, who infringes broad claims of an earlier

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patent , could claim non infringement of those broad claims by showing he had simply ADDED features to the patented product.

This argument would never stand up in Court.

If the earlier claim covers the later product, the earlier claim can never be distinguished by showing that some features have been ADDED in the later infringement.

The true test, in this case, is believed to be the very reverse of that proposed by the Examiner.

The true test would be that the method could be practised on studs NOT having the features of the Group 1 studs.

However notwithstanding this submission Applicant has no choice but to elect.

Applicant elects in favour of Group 1 Claims 1 to 17

Yours respectfully,
GCG Holdings Ltd.

Per.



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